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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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SUMMARY RECORD OF THE 35th MEETING IN 1990

Held at the Palais des Nations, Geneva,
on Friday, 30 November 1990, at 3 p.m.

Chairman: Mr. KOUZNETSOV

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS (agenda item 7)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Luxembourg (E/1990/5/Add.1) (continued)

1. At the invitation of the Chairman, Mr. Weitzel and Mr. Thill (Luxembourg) took places at the Committee table.

2. The CHAIRMAN said he was giving the floor to the delegation of Luxembourg so that it could reply orally to some of the questions that had been put to it, at a previous meeting, by members of the Committee, on the understanding that the Government of Luxembourg would subsequently reply in writing to the other questions that had been raised.

3. Mr. WEITZEL (Luxembourg) said that the questions concerning religious education in the schools, the influence of foreigners residing in Luxembourg on the country's culture, and ILO Conventions Nos. 98 and 151, would form the subject of written replies.

4. In response to the many questions concerning the status of the Covenant in Luxembourg's legal system, he recalled that, in Luxembourg, international treaties were incorporated into the domestic legal system only after they had been duly approved by the legislative authority, which had to pass an act to that effect, and had been published in the manner prescribed by the law. Those conditions applied to the Covenant also. Once those conditions had been fulfilled, international treaties were incorporated into domestic law, although they became directly applicable only if their provisions were so formulated as to be self-executing. To assess that direct applicability, the courts of Luxembourg took into consideration the wishes of the parties and the purpose and subject-matter of the provisions of the treaties. The courts of Luxembourg were competent not only to determine the direct applicability of international treaties, but also to interpret them. They had a monistic conception of the law and regarded treaties as taking precedence over national legislation, even subsequent legislation.

5. As far as the Covenant was concerned, all the competent Luxembourg authorities such as the Government, the Council of State and the Foreign Affairs Commission of the Chamber of Deputies, which had expressed their views at the time when the pertinent instrument of approval was adopted, had stated that the provisions of the Covenant were not directly applicable under Luxembourg law since, according to article 2, paragraph 1, of the Covenant, the States parties undertook solely to pursue the objective of the full realization of the rights recognized in the Covenant. As had already been said, some international treaties might not be automatically applicable under Luxembourg's system of public international law, and the International Covenant on Economic, Social and Cultural Rights, like the International Covenant on Civil and Political Rights, came into that category. Although that theory, which was also upheld by other States such as Belgium, was not universally accepted, it was based on a well-established doctrine and on the decisions of the competent authorities. Nevertheless, even if it was not

directly applicable under Luxembourg law, the Covenant was not treated as a poor relation and legislation had been and would continue to be adopted to guarantee the realization of all the rights recognized therein.

6. As for the procedure followed in preparing the initial report submitted by Luxembourg, which was dated 26 September 1988, and especially the question as to whether the Government of Luxembourg had consulted some organization or other in that connection, he explained that the report had been prepared on the basis of the information provided at the time by the various ministries concerned. He added that Luxembourg was not in the habit of consulting other organizations, whatever they might be, in order to prepare a report of that kind.

7. Mr. NENEMAN said he wondered whether, since the Covenant was not self-enforcing under Luxembourg law, it was applicable through the intermediary of Luxembourg's domestic legislation. Under the terms of the Covenant, the legislation of the States parties thereto must be compatible with the provisions of the instrument. Before acceding to the Covenant, therefore, many States had checked whether their domestic legislation was in keeping with its provisions and, if that was not so, had amended their legislation accordingly. He would like to know whether Luxembourg had undertaken, or was currently undertaking, such an exercise.

8. Mr. MRATCHKOV said that, in keeping with the Committee's usual procedure, it would be better to wait until the delegation of Luxembourg had replied to all the questions already asked before requesting further information.

9. The CHAIRMAN said that Mr. Mratchkov's comment was a very pertinent one and asked the members of the Committee to wait until the delegation of Luxembourg had replied to all the questions raised at the previous meeting before asking further questions.

10. Mr. THILL (Luxembourg), replying first of all to the question concerning the treatment of foreign workers from the standpoint of social security, said that the principle adopted in that regard in Luxembourg's social legislation was based on equal treatment of all employees, without distinction as to nationality, origin, religion or race. If an employee had signed a contract of employment in due and proper form, he was covered by social security and enjoyed the benefits provided for by the social security system.

11. With regard to the practical application of that principle, a distinction was made between two categories of foreign workers: nationals of European Economic Community countries and nationals of other countries. In that connection, he recalled that one of the main objectives set forth in the Treaty of Rome, constituting the European Economic Community, was the establishment of a common market and that primary concept implied the free movement not only of goods but also of persons, including employees and persons covered by social insurance. In accordance with the provisions of the Treaty of Rome, nationals of the Community's member countries were thus treated exactly the same as workers who were Luxembourg nationals.

12. As for the nationals of other countries, social legislation reflected the actual state of affairs: once there was a sufficient number of workers from a given foreign country in Luxembourg or, conversely, a sufficient number of workers from Luxembourg who had emigrated to a foreign country, his Government

considered that there was reason to conclude a bilateral or, in some cases, multilateral convention to ensure appropriate social security cover for the employees concerned. By way of example, he referred to the conventions that had been concluded with Austria, particularly the Convention of 1971, supplemented by another convention in 1978, which provided for reciprocal treatment based on the principle of assimilation to national workers. In view of the establishment in Brazil of a subsidiary of a Luxembourg-based metallurgical company, as a result of which a considerable number of engineers and technicians from Luxembourg had emigrated to that country, Luxembourg and Brazil had signed the Convention of Rio de Janeiro in 1965 in order to cover the social security risks of those workers. The Convention concluded with Portugal in 1965 had lapsed since, following that State's entry into the European Economic Community, Portuguese nationals were covered by the same system as the nationals of the other Community States. However, in view of the fact that Cape Verde, a former Portuguese territory, had achieved independence in the interim and therefore did not form part of the Community, a new convention had been concluded with Cape Verde in 1981, under which the many nationals of that country who had emigrated to Luxembourg enjoyed the same social security rights as Luxembourg citizens. In that connection, he mentioned that Cape Verde was currently establishing its own social security system and that an official from that country had visited Luxembourg to study the latter's system as a model for his own country.

13. In the same context, he pointed out that the social security Convention signed with Switzerland in 1967 unfortunately did not cover sickness insurance risks in view of the fact that, in the Swiss Confederation, they came under the jurisdiction of the cantonal authorities. He added that bilateral social security arrangements or conventions had also been concluded with the United States, Yugoslavia, Tunisia, Sweden, Canada and Quebec.

14. As for the question concerning the party responsible for paying the salary in the case of leave granted for educational purposes, he explained that, in the private sector, the person granted such leave received a compensatory allowance equivalent to his average daily salary. The employer advanced the funds needed to pay that allowance, which were subsequently reimbursed by the State. In the public sector, a person granted educational leave continued to receive his salary and, if he was employed by a public institution (a sickness insurance fund, for example), the State reimbursed the share of the social security contributions borne by the employer.

15. With regard to the questions concerning the right to strike, he pointed out that the legislation in that field was likewise formulated in the light of the actual situation. In fact, strikes were fairly infrequent in Luxembourg. A strike always resulted from a vote since, because of their democratic structure, trade unions were obliged to consult their members and every decision concerning possible industrial action was therefore put to the vote.

16. In reply to the question whether the participants in an illegal strike might be liable to a penalty of imprisonment, he said that that was not the case. However, if a strike were declared illegal, disciplinary sanctions might be taken, in accordance with administrative law, against employees who had thus absented themselves from their work for a reason other than those recognized by law. Moreover, it was possible that acts constituting criminal

offences (e.g. damage to property, illegal confinement of an employer or assault) might be committed during a strike. The possibility could not be excluded that criminal court judges hearing a charge filed in such circumstances might convict and sentence the guilty parties.

17. In reply to the questions concerning the concept of a lawful strike, he explained that, under Luxembourg law, there were several conditions that had to be fulfilled for a strike to be regarded as lawful. First of all, the strike must have a legitimate cause; in other words, it must constitute the last resort available to employees to induce their employer to accept their demands for an improvement in their economic or occupational situation. Accordingly, the strike must be confined within the context of the enterprise and it would be illegal to strike for purely political reasons. Moreover, every strike must be preceded by negotiations between the associations of employers and the trade-union organizations concerned with a view to amending the collective agreement in force. The National Conciliation Office, the composition and functions of which had already been specified (see E/C.12/1990/SR.33), intervened if those negotiations failed. In that connection, he pointed out that the negotiation and conciliation procedures had to be respected before notice of a strike was given, failing which the strike in question would be deemed illegal. He added that disputes which had not been settled through conciliation could also be referred to arbitration, on the subject of which he had information which was at the disposal of any members of the Committee who might require further details.

18. On the question of physical and mental health, he considered that the WHO definition of health was based on a purely subjective concept: if health was "a state of complete physical, mental and social well-being", the absence of happiness would, in itself, constitute an incipient illness. However, that was a risk which no national social insurance institution, in Luxembourg or elsewhere, could include or handle while, at the same time, controlling its financial situation and guaranteeing adequate cover for all. It should not be forgotten that, even in favourable economic conditions, social security systems showed a deficit. Under Luxembourg law, sickness was defined as a mental or physical deficiency entailing an inability to work and necessitating medical treatment or health care.

19. It was true that, as one member of the Committee had asserted, preventive medicine was not very advanced in Luxembourg. However, the national authorities had examined that question and had considered the possibility of introducing a system whereby a certain number of insured persons would be assigned to each general medical practitioner, who would be required to treat the persons registered with him before referring them to a specialist. Such a programme apparently existed in the United States and made it possible not only to control public health expenditure but even to place preventive health care on a sound economic footing. The Luxembourg authorities had also considered the possibility of introducing a system of periodic medical examinations to detect potential pathological symptoms; the famous "check-ups" that had been introduced in North America 50 years previously. However, according to recent studies, it seemed that those examinations were extremely costly and had not produced the expected results. For that reason, the Luxembourg social insurance institutions had decided, for the moment, not to put into operation a general plan for the systematic

early detection of disease and had opted for more specific measures to combat so-called "diseases of civilization"; they were currently holding negotiations with the medical associations concerning a contractual system for the early detection of disease, in which provision would be made for a higher tariff schedule for some examinations relating to those diseases. The country's sickness funds also offered incentives for preventive dental care, since they reimbursed 100 per cent of the cost of dentures to any insured person who could prove that he had consulted a dentist for preventive care during the preceding two years.

20. One of the experts had asked why, according to the statistics, there was such a high consumption of alcohol in Luxembourg. The figures quoted related to sales rather than consumption. Luxembourg's alcoholic products were of very good quality and less expensive than in neighbouring countries, and the inhabitants of the frontier zones therefore did their shopping for such products in Luxembourg. Consequently, the actual consumption of alcohol in the country was lower than the statistics might imply. Incidentally, the social insurance institutions, wishing to reduce their deficit, had suggested four years previously that a special tax should be imposed on tobacco and spirits, but that proposal had not been adopted.

21. The Committee had inquired about the trend in unemployment after 1988: in that regard, a downward trend had been recorded and the number of unemployed had declined from 2,700 (1.7 per cent of the economically active population) in 1987 to 2,500 (1.5 per cent) in 1988 and 2,300 (1.4 per cent) in 1989.

22. With regard to the minimum wage, he confirmed that it was the same for all and was not determined in the light of the profitability of enterprises. Moreover, wages were indexed to the cost of living and were increased or reduced, in both the public and private sectors, whenever there was a 2.5 point change in the cost-of-living index. That index was calculated on the basis of the evolution of the consumer prices of certain essential goods and services, the so-called "shopping basket", comprising bread, milk, butter, cooking oil, potatoes, veal (two qualities), codfish, white wine, beer, coffee and cigarettes, and also the first medical consultation, petrol, fuel oil for heating, natural gas, a car wash, a bus journey to Luxembourg City, a taxi journey, a cinema ticket and a telephone call. Account was also taken of the cost of clothing, housing, domestic appliances, recreation, education, transport, health care, etc. If 1988 were taken as the base year and assigned a value of 100, the consumer-price index currently stood at 112.92 points.

23. With regard to the right to work, the Committee had asked how unfair dismissal was defined in Luxembourg law. According to the Act of 24 May 1989, the right to terminate a contract of employment was misused if such termination constituted an act that was socially and economically abnormal and was not based on real and serious causes connected with the employee's efficiency or conduct or on the operational requirements of the enterprise or department. The discriminatory dismissal of employees appointed by the works council to exercise the decision-making powers vested in it by the law was also regarded as unfair. Dismissals had thus to be based on economic necessity and could not be used to punish employees for belonging to a joint production committee or a trade union. If the labour court found a dismissal to be wrongful, it could order the employer to pay damages to the aggrieved employee, the amount of such damages being determined in the light of the injury caused.

Furthermore, if it considered that the requirements for a return to work had been fulfilled, the labour court could recommend that the employer reinstate the employee. If the employer agreed thereto and actually reinstated the employee without prejudice to the latter's rights, the damages that had been awarded against him were waived; otherwise, if the employee so requested, the labour court could order the employer to pay an additional indemnity, together with one month's salary or wages.

24. There were four large trade unions in Luxembourg: the Civil Servants' Union, a Christian union and two unions that were neutral, i.e. without direct links to any of the political parties. In reply to the question concerning the conditions under which a trade union was regarded as representative, he pointed out that, according to the Act on collective agreements of 12 June 1965, any group possessing an internal organization and seeking to defend the occupational interests of its members, to represent them and to improve their living conditions was recognized as a trade-union organization. Trade unions were considered representative at the national level only if they had a substantial membership and were characterized by their independence and by their social and cultural activities.

25. The Committee had inquired whether there was a connection between the amount of the retirement pension and the size of the salary. They were, in fact, connected. The pension system applied in Luxembourg came under category B, as defined in Community Regulation 1408: in systems of that type, the amount of the pension varied in terms of the number of contributory years and the amount of the salary declared for contribution purposes.

26. The Committee had asked about the circumstances under which housing allowances were payable. He confirmed that housing allowances depended on the applicant's income and assets. There were no legal standards for the quality of housing. However, the annual population censuses also provided the opportunity to gather data on housing units with respect to their amenities, sanitary installations, rate of occupancy, etc. Moreover, the communal rent commissions were required to appraise housing in the event of rent disputes. In that way, the Ministry of Town Planning could monitor the situation in that regard.

27. Although it was true, as stated in the Covenant, that the family was the fundamental group unit of society, it was no less true that the family was evolving and that the law, and also social security benefits, had to reflect that evolution. For instance, the loosening of family ties meant that, instead of being cared for by their families, elderly persons were usually placed in retirement homes and the public health authorities were faced with the problem of the shortage of beds in geriatric wards. On the other hand, the novel phenomenon of single-parent families did not pose any particular problems in Luxembourg; either from the legal standpoint, since it was enough for one of the parents to accept the legal relationship with the child and recognize it as a natural child, whereupon it was treated in the same way as a legitimate child or, from the standpoint of social security, the sole criterion of which was dependency, regardless of whether the child was legitimate, legitimized, natural, adopted or quite simply given a home by a person covered by social insurance.

28. The members of the Committee had inquired whether the child or either of the spouses might be harmed in the event of divorce. Morally speaking, he was of the opinion that all the parties concerned inevitably felt the impact of a divorce, which entailed a deterioration, if not a rupture, of the emotional links, although the after-effects were more serious for very young children. From the material standpoint, the spouses engaged in divorce proceedings exercised before the notary appointed by the court their right to recover possession of the property they had contributed to the joint household, the notary being empowered to make the breakdown.

29. Luxembourg had not escaped the phenomenon of the declining birth rate, which had led to fairly frequent changes in family benefits. The scope of those benefits had been considerably expanded over the years and currently comprised family allowances, allowances for schoolchildren, education grants, birth grants and maternity benefits. Family allowances were payable to any parent of a child who had been brought up, without interruption, in Luxembourg and was legally domiciled there, and also to persons coming under Luxembourg social security legislation who had dependent children residing abroad. A child under 18 years of age and suffering from a disability that entailed a permanent loss of 50 per cent of his physical or mental capacity, as compared with that of a normal child of the same age, was entitled to a special supplementary allowance. The allowance for schoolchildren was governed by the Act of 14 July 1986, as amended by an Act dated 1 August 1988. It was granted in respect of children over six years of age and was calculated on the basis of the age of the child and the composition of the family group. The education grant, introduced in 1988, was paid to any person domiciled and actually resident in Luxembourg, who was either bringing up in his home one or more children under two years of age in respect of whom family allowances were paid, was devoting himself mainly to the education of children at home and was not exercising a professional activity or receiving any alternative income, or who, although exercising a professional activity, was receiving, together with his unseparated spouse or the person with whom he was living, an income which, after deduction of the social security contributions, did not exceed three times the standard minimum wage if he was bringing up one child, four times the same standard wage if he was bringing up two children and five times the same standard wage if he was bringing up three or more children.

30. The mother and child benefits, paid by the sickness insurance funds to the beneficiaries applying therefor, were governed by the Act of 1977 which made provision for a systematic medical examination of expectant mothers and of children. They consisted in: (i) the pre-natal allowance, which was paid to mothers who had been domiciled in Luxembourg in the year preceding the birth or whose husbands had been domiciled in Luxembourg during the three years preceding the birth, provided that they had undergone five medical examinations and a dental examination; (ii) the birth grant, payment of which was subject to the same conditions and to a medical examination eight weeks after delivery; and (iii) post-natal grants to children who were brought up in the Grand Duchy of Luxembourg, payment of which was conditional on two perinatal examinations and five medical check-ups during the first five years of the child's life. Maternity allowances, which had already been described, were also payable. For the benefit of young children, the local authorities were opening more and more day-nurseries to care for children both of whose parents were working or who belonged to the constantly increasing number of single-parent families.

31. The question of elderly and aged persons should be viewed in the light of the social welfare projects that the Government of Luxembourg was planning to implement. Income generated by the economy should serve not only to maintain the production capacity of enterprises but also to ensure a degree of social welfare consistent with the national wealth and to guarantee the exercise of the fundamental rights: the right to work, the right to social security against sickness, old age, disability, unemployment and poverty, the right to education and the right to housing, all of which were recognized in the Covenant.

32. In the past, Luxembourg had always endeavoured to ensure the exercise of the economic, social and cultural rights recognized in the Covenant. Currently, in spite of the economic risks posed by the size of the foreign interests in the Luxembourg economy, the Government had decided to pursue its employment policy more intensively and to prepare for the technological changes that were bound to occur. The legislative provisions concerning early retirement would be maintained and expanded and a bill was being introduced to authorize a combination of rationalization early retirement and compensatory employment in enterprises that were being restructured. More extensive half-time and temporary employment should absorb the surplus labour resulting from the increasing influx of frontier-zone workers. The legislation concerning dangerous or unhygienic establishments, which had already been improved in 1989 through provisions applicable to large iron and steel plants and to mines, would be strengthened still further. Plans had been made to assist handicapped workers by co-ordinating the social and vocational rehabilitation provisions and ensuring that the organizations that provided benefits for handicapped persons agreed together in advance on the rehabilitation measures in each specific case. A more active social housing policy would be supported by financial measures.

33. The financial deficit in the sickness insurance scheme had to be remedied. It was hoped that expenditure could be curbed by making the persons who prescribed medical care more aware of the problem by clarifying the nature of such care and by establishing medical-history profiles. Contributions would be increased by raising the maximum rate and adjusting contributions in relation to 1988 wage levels, making provision for a second year of parental leave and raising the age of retirement from 65 to 68 years.

34. The problem of the division of retirement pension entitlements in the event of divorce was still under study.

35. With regard to care of the aged, there were plans to increase the number of beds in geriatric wards, in retirement homes providing medical care and also in institutions intended for persons requiring nursing care. The time that persons devoted, in their own homes, to the care of severely handicapped relatives would be taken into account in the assessment of insurance entitlements. Since home care was not always sufficient, integrated care centres would also have to be established.

36. Mr. WEITZEL (Luxembourg), replying to a question concerning the rights of natural children, said that natural children were henceforth treated in exactly the same way as legitimate children, particularly in matters relating to rights of succession, the law having been amended more than 10 years previously following a ruling by the European Court of Human Rights.

37. Luxembourg nationality was acquired by birth, by option in the case of persons having special links with the Grand Duchy, or by naturalization. Persons applying for naturalization had to be at least 18 years of age and must have resided in Luxembourg for not less than 10 years. The minimum period of residence could be reduced from 10 to 5 years in certain cases, e.g. if the applicant had been born in Luxembourg, if he had previously held Luxembourg nationality, if he was the widowed or divorced spouse of a citizen of Luxembourg, if he had one or more children holding Luxembourg nationality, at least of whom one was domiciled in the Grand Duchy, or if he was stateless or a refugee. Optional acquisitions of nationality, of which there had been 361 in 1989, were still slightly more numerous than the acquisitions by naturalization, of which there had been 243 in the same year.

38. In reply to the question concerning divorces, he said that the number had increased considerably, particularly since 1980. In 1970, there had been 217 divorces, corresponding to 10 per cent of the marriages in the same year, and that number had increased to 582 in 1980 and 855 in 1989, corresponding to 27 per cent and 40 per cent respectively of the marriages in those years.

39. Education was provided free in the State schools at the pre-school, primary and secondary levels and during the first year of university studies, which was the highest educational level catered for in Luxembourg. Students who had to pursue their university studies abroad received State grants and scholarships. The private schools, which were almost all Catholic, enjoyed corporate legal personality; they were subject to an extremely strict licensing procedure and were recognized only if the subjects that they taught were the same as those taught in the State schools. Relations between the State and the educational establishments were governed by the Act of 1912 in the case of the primary schools and the Act of 1982 in the case of the post-primary establishments. The opening of private schools was subject to the granting of a licence, issued by administrative order on the basis of a proposal by the Ministry of Education after verification of the respectability and qualifications of the management and staff, the suitability of the premises, the educational objectives, programmes and methods, the certificates awarded to students, the regulations concerning discipline and funding and the standard educational contract concluded with the pupils or their representatives. In order to receive a subsidy under the terms of the legislation, private schools had to provide an education of the same standard as that offered in the State schools, which could be ratified by the same certificates. The private educational sector in Luxembourg currently included two secondary schools, four technical schools and four paramedical schools, all of which were Catholic, together with four secular schools, one of which provided technical education. As for the number of foreign children attending school in Luxembourg, there were, in the academic year 1982/83, 48,208 children in all enrolled in educational establishments, of whom 14,457 were foreigners. Primary education was provided for 14,065 Luxembourg children and 7,938 foreigners, secondary education for 6,952 Luxembourg children and 979 foreigners and vocational education for 11,512 Luxembourg nationals and 4,050 foreigners.

40. With regard to the rate of academic failure, of the 4,070 pupils enrolled in the first primary class in 1982/83, 461 were repeating the academic year. The proportion gradually diminished as pupils moved up towards the secondary level. A comparison, by nationality, of the percentage of pupils repeating

an academic year at the primary level showed that it was lower for Luxembourg children than for the children of immigrant workers. It was quite high in the first year, particularly in the case of Portuguese children (24.01 per cent), and then decreased progressively in the higher grades.

41. In reply to the question concerning the reduction in the education budget, he indicated that the proportion of the total budget that was allocated to education had decreased in 1983, from 14.62 per cent to 10.77 per cent, for the reasons that had already been explained, after which it had gradually increased until it reached its former level of 14.62 per cent in 1989.

42. As for the question concerning the education of refugees or adult migrants who had never attended school, he said that, as far as he knew, there was no education system specially designed for them in Luxembourg.

43. Mr. ALVAREZ VITA said that, in his opinion, Luxembourg had failed to meet its commitments under article 2 of the Covenant, since it had not incorporated the provisions of the Covenant into its domestic legislation.

44. Mr. WEITZEL (Luxembourg) once again recalled that Luxembourg, like other countries, had its own system of compliance with international treaties. Luxembourg was fulfilling its obligations not by incorporating the Covenant into its domestic legislation but by applying the provisions of the Covenant and passing legislation or introducing regulations that guaranteed the exercise of the rights set forth in the Covenant. He mentioned that, when the International Covenants on Human Rights were being ratified, the Luxembourg Council of State had referred to the opinion delivered by the Belgian Council of State, in which it was inferred from the terms of article 2 of the International Covenant on Civil and Political Rights that the Covenant did not concede directly to the individuals concerned the rights it enumerated, since each State party to the Covenant undertook solely to take the necessary steps, in accordance with its constitutional processes, to give effect to the rights which, although recognized in the Covenant, were not already being enjoyed. In other words, they undertook to adopt legislative measures to incorporate the rights in question into their domestic laws and, following the entry into force of the Covenants, and to refrain from revoking or restricting any of the rights recognized in those instruments which were already embodied in their domestic legal systems. On the basis of the terms employed in article 2, paragraph 1, of the International Covenant on Economic, Social and Cultural Rights, the Belgian Council of State had come to the conclusion that the lack of direct applicability was even more evident in the case of the Covenant on Economic, Social and Cultural Rights than in the case of the Covenant on Civil and Political Rights. Finally, he pointed out that the way in which international treaties were interpreted and incorporated into the domestic legal system was merely a question of form; the essential fact was that States should guarantee the rights embodied in those instruments.

45. Mr. ALVAREZ VITA said that he did not share the opinion expressed by the representative of Luxembourg. The theory that every country had its own way of interpreting international treaties would lead to chaos and would destroy the very essence of international law.

46. The CHAIRMAN congratulated and thanked the delegation of Luxembourg for the competent way in which it had introduced its country's report. In spite of the brevity of that report - which had been emphasized by several experts, the Committee had obtained a considerable amount of statistical information, which had given it a fairly clear idea of the way in which Luxembourg was fulfilling its obligations. He felt that the dialogue had been very useful and hoped that it would continue. He informed the Committee that the delegation of Luxembourg would be submitting further information in January.

47. Mr. Thill and Mr. Weitzel (Luxembourg) withdrew.

ORGANIZATION OF WORK (agenda item 4) (continued)

48. Mrs. KLEIN (Representative of the Secretary-General) said that, on the instructions of its Government, the Permanent Mission of Panama had transmitted a note to the Committee, in which it requested postponement of the consideration of its three reports (initial reports concerning the rights referred to in articles 6-9 and 13-15 of the Covenant and the second periodic report concerning the rights referred to in articles 10-12). The Mission had received some extremely important additional information concerning the realization of the rights recognized in articles 6-9 and 10-12 of the Covenant and wished to update the reports relating thereto. Moreover, the Mission did not have the technical data needed to reply to the questions asked by the pre-sessional Working Group concerning the application of articles 13-15 of the Covenant. The Mission therefore requested the Committee to consider the above-mentioned reports at its next session.

49. Mr. RATTRAY said he wondered how the Committee could initiate a fruitful dialogue and assess a report if it did not have the information requested by the pre-sessional Working Group. He recalled that Panama had undergone some major political changes and that it was currently passing through a period of transition. In view of that situation, he proposed that the Committee should accept the request for postponement.

50. Mr. ROMERO said he fully supported Mr. Rattray's proposal. He emphasized that Panama's reports had been prepared in 1987 and did not take into account, therefore the changes that had taken place in the country. In his view, the Panamanian Government should be given the opportunity, as requested, of updating those reports.

51. Mr. MRATCHKOV recalled, with some concern, that the Committee had adopted the text of a letter to be sent to the Permanent Mission of Afghanistan, informing it that its request for postponement had been rejected and that its report would be considered. The Committee was apparently to consider that report in the absence of any representative of the Afghan Government and without having received a reply to the questions asked by the pre-sessional Working Group. He wondered whether the difference in attitude towards those two countries was really justified. He proposed that the Committee should give some thought to the matter.

52. The CHAIRMAN said that, while supporting Mr. Mratchkov's proposal, he wished to point out that consideration of the report of Afghanistan had already been postponed five times. In the case of Panama, the situation was different; the Panamanian Government had requested a postponement to enable it to submit some extra information to the Committee and was not trying to prevent its reports from being considered by the Committee.

53. Mr. NENEMAN said that the Committee had received many reports which it would not have time to consider during its current session. If States submitted last-minute requests for postponement, the Committee would not be able to consider reports other than those scheduled, since there would be no time to invite the States concerned to send representatives. It would therefore lose some valuable time. That was an important aspect that should be examined further.

The meeting rose at 5.45 p.m.